

CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT

JUNE 15, 2009

SUBJECT:

SCA2006-00097 - Application to Close and Abandon Public Right-of-Way

Applicant: Montgomery County Dept. of Housing & Community Affairs
c/o Richard Y. Nelson, Jr., Director
100 Maryland Avenue, 4th Floor
Rockville, Maryland 20850

Property
Location: Right-of-Way of Mount Vernon Place
Rockville Heights Subdivision
Rockville, Maryland 20850

Planning Commission Hearing Date: June 24, 2009
Mayor & Council Public Hearing Date: July 13, 2009

PREVIOUS RELATED ACTION:

Residential Townhouse RTH2005-00020, Montgomery County Government – a proposal to construct 44 town homes on the subject 3.85 acre parcel (then) located in the R-90 (Single Family Detached, Restricted Residential) Zone. **Note:** The application was never fully processed nor taken forward to completion by the applicant.

REQUEST:

The applicant seeks permanent closure and abandonment of public right-of-way, an unimproved street running between Maryland Avenue and Monroe Street, north of Block 3 in the Rockville Heights subdivision and dedicated per Plat No. 56.

If the request is granted the 36,914 square foot land area which makes up the subject public right-of-way will be divided equally in half and joined to the abutting owner's properties, i.e., the Montgomery County property to the north and Courthouse Walk Homeowners Association or respective homeowners to the south.

MAJOR ISSUES:

In the course of staff's review of the proposal, the following issues were identified, as discussed later in the report:

- Placement of the property being joined into the County owned property, from the right-

of-way abandonment, into a Forest Conservation Easement.

- Placement of the property being joined into the Courthouse Walk townhouse properties, from the right-of-way abandonment, into a Public Improvement Easement.
- The extent and/or amount of development that may occur from the planned development of the County owned property, within the requested Forest Conservation Easement.

STAFF RECOMMENDATION:

Approval is recommended subject to the following conditions:

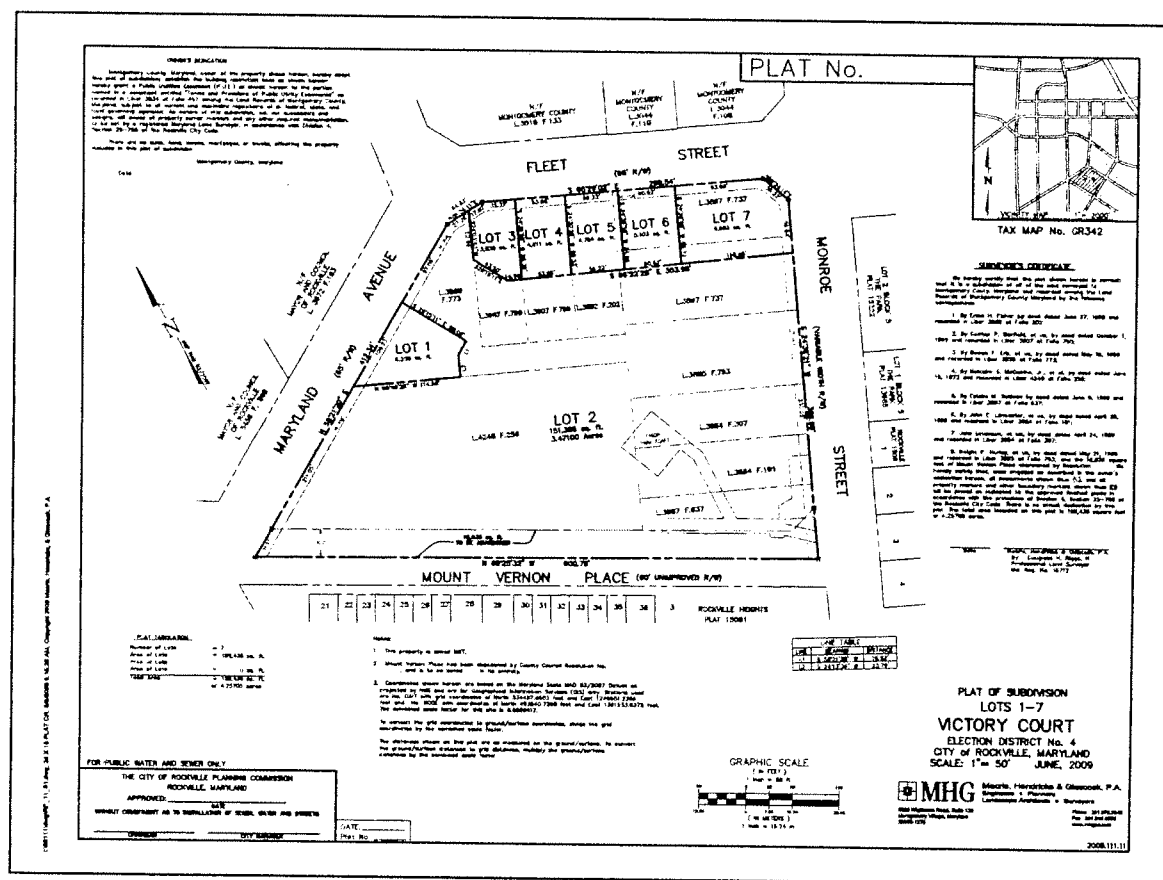
1. Abandonment of the full 36,914 square foot public right-of-way as referenced in the attached application request (see Attachment A & Exhibit 1).
2. A storm drain easement for the 54-inch City pipe located within the Mount Vernon Place right-of-way must be established and recorded in a form acceptable to the City's Department of Public Works (DPW) and the City Attorney. All costs associated with the preparation and recordation of the easement shall be borne by the applicant. **Note:** Additional easements may be required in connection with future development approvals in order to convey site drainage from the applicant's (Montgomery County) property and/or its future (planned) site development.
3. Applicant must execute and record an agreement obligating applicant and its successors, upon the written request of the City or any public utility company, to grant and record at no cost to the City or utility, such additional easements to the City or such utility company as may be needed within the portion of abandoned right-of-way area that will revert to applicant. All costs for the preparation and recordation of the agreement and subsequent easements shall be borne by the applicant.
4. The applicant must establish and record a Forest Conservation Easement (FCE), in a form acceptable to the City Forester and the City Attorney, over that portion of the abandoned right-of-way to revert to the applicant, as illustrated in the subject abandonment application. Such Forest Conservation Easement may not overlap with any other easement.
5. A public improvement easement (PIE) must be established in the portion of the abandoned right-of-way area that will revert to the Courthouse Walk Homeowners Association. The easement must be in a form acceptable to the City's Department of Public Works (DPW) and the City Attorney, and all costs associated with the preparation and recordation of the easement shall be borne by the applicant.

ANALYSIS:

The applicant (Montgomery County) has entered into an Option to Lease agreement with Victory Housing, Inc. (VHI) to develop and operate a 90-unit affordable housing community for

independent elderly residents in the City to be known as Victory Court. The subject property is bordered by Maryland Avenue on the west, Fleet Street on the north, and Monroe Street on the east. As shown on plat and site plans accompanying this abandonment request, the Mount Vernon Place public right-of-way is approximately 60 foot wide, located along the southern site boundary of the County- owned property.

The applicant submits the subject application request, a petition to abandon the entire public right-of-way of the segment of Mount Vernon Place, between Maryland Avenue and Monroe Street, one-half of which would be joined with the existing County-owned property, thus creating a buffer between the now proposed Victory Court Senior Housing facility and the existing Courthouse Walk townhouse development to the south (See Exhibit 2). The applicant indicates that the portion of the abandoned right-of-way being joined to its property will be placed in a conservation easement. However, in accordance with proposed site development plans filed under Special Exception SPX2009-00378, provide for a small portion of the proposed site parking lot for the senior house development will encroach approximately 8 feet into the public right-of-way which is the subject of this request.



Proposed Plat of Subdivision

Among the supporting documents submitted with the applicant's petition, is a copy of the Rockville Heights record plat (dated 1889-1890), which clearly shows the Mount Vernon Place public right-of-way. The applicant has also provided an updated sketch showing the right-of-way being abandoned (See Attachment A). The right-of-way is approximately 60 feet wide, approximately 598 feet in length along the County's property, and approximately 637 feet \pm in length along the Courthouse Walk townhouse tract development. As noted, land area of the r/w to be abandoned is approximately 36,914 square feet in size, i.e., 0.847 acres.

Based on available records and field observations, the right-of-way has never been formally used by the City for public street or roadway purposes. The City's Master Plan that was adopted on November 12, 2002, identifies existing and planned city roadways and streets. While the public right-of-way that is the subject of this application request is shown on maps in the Plan, there is no indication as to the status of the street. Public Works staff has indicated that the subject right-of-way is no longer needed or appropriate for a roadway; however, a pedestrian/bikeway in the area may be appropriate in the future.

There is an existing stormdrain pipe located within the right-of-way that will revert to the adjoining Courthouse Walk Homeowner's Association. A stormdrain easement is needed in order to allow the City access to the storm drain for maintenance and repair purposes. Based on available information the existing public right-of-way does not contain or accommodate any other existing utilities. At the time of the preparation of this staff report two public utilities had responded with no objections to this abandonment request (See Attachments B&C). However, staff has recommended as a condition of the abandonment that the applicant be required to grant utility and access easements based on future requests by the City or respective utility companies.

Thus, based on all available information, staff finds that the subject right-of-way is not needed for public or private roadway purposes and recommends that the requested application for abandonment be approved, subject to the conditions referenced on pages one and two of this report.

Attachment "A" – Application to Close & Abandon Public Way

Attachment "B" – Verizon Letter

Attachment "C" – Washington Gas Letter

Exhibit "1" – Proposed Subdivision Plat

Exhibit "2" – Proposed Site Plan



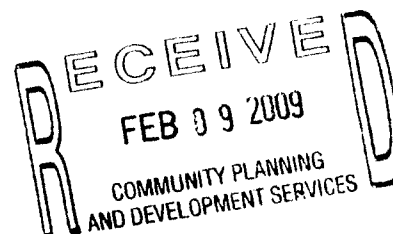
Attach A

DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Isiah Leggett
County Executive

Richard Y. Nelson, Jr.
Director

February 4, 2009



Mr. R. James Wasilak
Chief of Planning
Community Planning and Development Services
Rockville City Hall
111 Maryland Avenue
Rockville, MD 20850

Re: Application to Close and Abandon Mount Vernon Place;
Request to Re-Initiate SCA2006-00097

Dear Mr. Wasilak:

Pursuant to your conversation with Soo Lee-Cho, Esquire of Miller, Miller & Canby (representing Victory Housing, Inc.), this letter is to request that the City re-initiate the above referenced abandonment application for Mt. Vernon Place filed by Montgomery County on January 25, 2006. Attached are copies of the previously filed application and other exhibits, including a metes and bounds description and sketch of the subject right-of-way prepared by VIKA that was located in the City's file.

At the time of the initial filing, the abandonment request was made by the County to create a buffer area between a new townhouse development being proposed at the time on the County-owned property located along the north side of the right-of-way and the existing Courthouse Walk townhouse development located along the south side of the right-of-way.

As you are aware, instead of new townhouses, the current development proposal for the County-owned property is for an affordable senior housing project, anticipated to be submitted to the City by Victory Housing, Inc. in March 2009. The purpose for the abandonment request remains the same.

The current project manager for the County is Alisa Wilson. Please contact me or Ms. Wilson with any questions. She can be reached at 240-777-3623.

Sincerely,

Richard Y. Nelson, Jr.
Director

RYN:aaw

Office of the Director

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ATTACHMENT "A"

Attach A

APPLICATION TO CLOSE AND ABANDON PUBLIC WAY ROCKVILLE, MARYLAND

NOTICE This application must be typewritten or printed and filed in duplicate, with attachments, in the office of the City Clerk.

Montgomery County Government
c/o Lisa Rother, Planning Manager
Name of Applicant

101 Monroe Street
Street Address

Rockville Maryland 20850
City State Zip Code

240-777-2593
Telephone No.

TO BE FILLED IN BY THE CLERK

Application No: SCA2006-00097

Filing Date: 1/25/06

Hearing Date: _____

Decision and Date: _____

The undersigned hereby makes application with the Mayor and Council of Rockville, Maryland, for the permanent closing and abandonment of the public way described Herein, and in support of such application supplies the following information:

- (a) The name and address of the undersigned are as indicated above.
- (b) The public way which is the subject of this application is generally described by name and United States Post Office numbering or intersecting streets as follows: The right-of-way of Mt. Vernon Place, an unimproved street running between Maryland Avenue and Monroe Street, north of Block 3 in the Rockville Heights subdivision and dedicated per Plat No. 56.
- (c) The reasons for making such application are as follows:

Abandonment of the right-of-way will allow the unbuilt right-of-way to be joined with the existing County-owned property to create a buffer between the proposed new townhouse development and the existing Courthouse Walk townhouse development. The right-of-way will be subject to a conservation easement and no development will take place within the abandoned right-of-way. No need for this right-of-way for transportation purposes has been identified in any Master Plan or other City document. No property will be landlocked as a result of this abandonment.

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(e) A description by metes and bounds of the public way which is the subject of this application is as follows:

Mt. Vernon Place was dedicated on the "Rockville Heights" subdivision plat in Plat Book A, Plat No. 56. A copy of this plat is attached.

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(f) According to assessment records, all of the owners of real property immediately adjacent to the public way, which is the subject of this application, are as follows:

<u>Name</u>	<u>Address</u>
Courts of Town Center Homeowners Association, Inc.	326-A Lynn Manor Drive Rockville, MD 20850
Montgomery County Government c/o Lisa W. Rother	101 Monroe Street Rockville, MD 20850

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~~Signature of Attorney~~

Signature of Applicant

Subscribed and sworn to before me this 23 day of January 2006.

Deborah A Richards
Notary Public
Deborah A Richards
My Commission Expires: 3-1-06

APPROVED AS TO
FORM AND LEGALITY
OFFICE OF COUNTY ATTORNEY
BY William J. Guinan
DATE 1/25/2016

ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GPS SERVICES



MARCH 14, 2006
DESCRIPTION OF A PORTION OF
MT. VERNON PLACE
PLAT BOOK A, PLAT NO. 56
CITY OF ROCKVILLE
MONTGOMERY COUNTY, MARYLAND

Being a portion of Mt. Vernon Place as shown on a plat entitled "Rockville Heights" recorded in Plat Book "A" as Plat No. 56 among the Land Records of Montgomery County, Maryland; and being more particularly described as follows:

Beginning for the same at a point marking the westerly corner of Lot 13, Block 2, Rockville Heights, as recorded on the aforesaid plat, said point also marking the southerly right-of-way line of Maryland Avenue; thence running with Lots 13, 12, 11, 9, 76 and 5, Block 2, Rockville Heights

- 1.) South 60° 27' 46" East, 597.78 feet to a point marking the northwesterly right-of-way line of Monroe Street; thence running with said northwesterly right-of-way line of Monroe Street
- 2.) South 24° 18' 57" West, 60.06 feet to a point; thence running with Parcel "A", Block 3, Rockville Heights, recorded as Plat No. 15081 among the aforesaid Land Records
- 3.) North 60° 27' 52" West, 637.52 feet to a point on the aforesaid southerly right-of-way line of Maryland Avenue; thence running with said southerly right-of-way line of Maryland Avenue
- 4.) North 59° 20' 35" East, 68.95 feet to the point of beginning containing 36,914 square feet or 0.84743 acres of land.

The undersigned hereby states that the metes and bounds description hereon was prepared by myself or under my direct supervision and that it complies with the Minimum Standards of Practice for Metes and Bounds Descriptions as established in Title 9, Subtitle 13, Chapter 6, Section 8 of the Code of Maryland Regulations (COMAR) as enacted and amended.

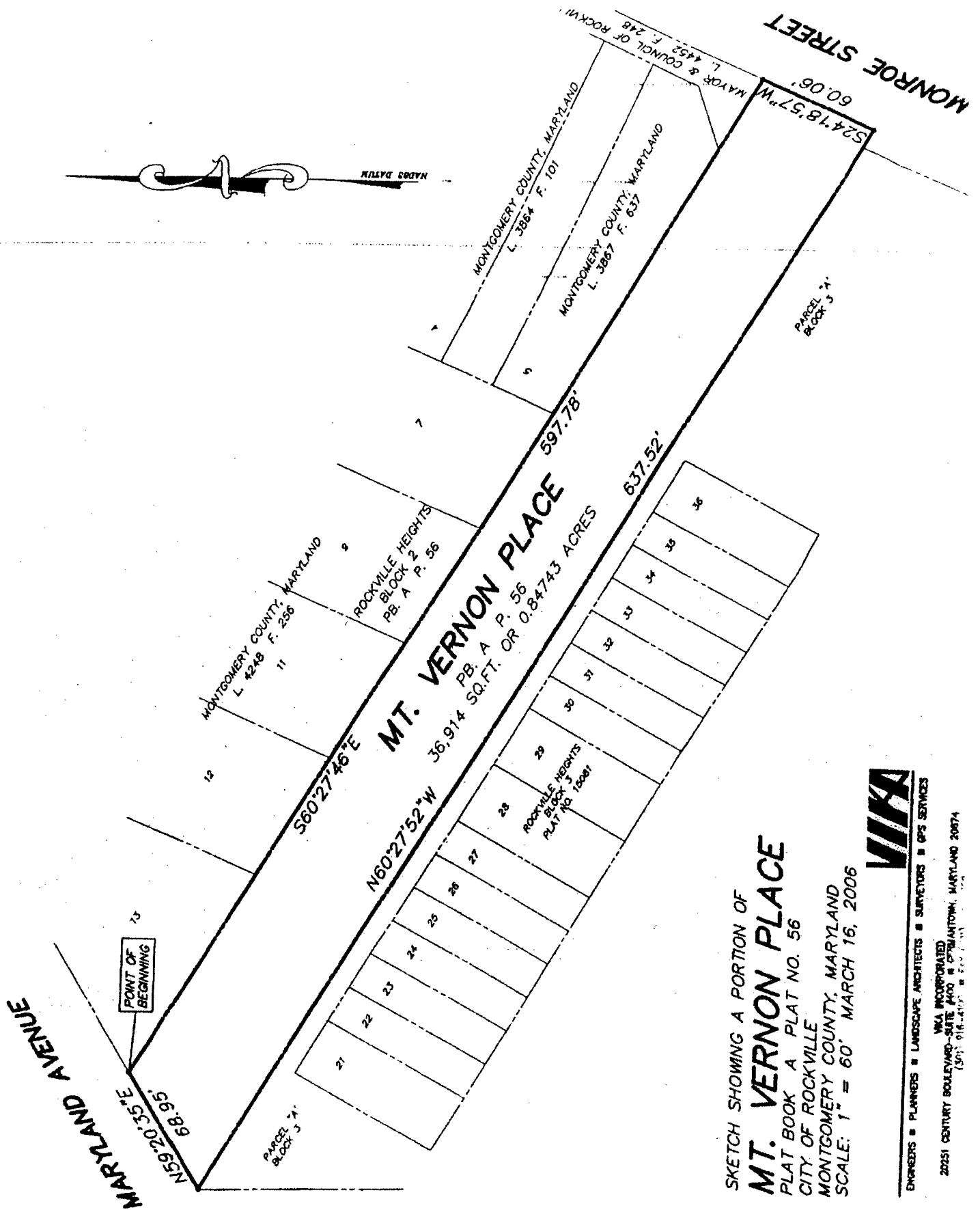
MARCH 16, 2006

Date



[Signature]
 Harry L. Jenkins
 Professional Land Surveyor
 Maryland No. 606

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SKETCH SHOWING A PORTION OF
MT. VERNON PLACE
PLAT BOOK A, PLAT NO. 56
CITY OF ROCKVILLE
MONTGOMERY COUNTY, MARYLAND
SCALE: 1" = 60' MARCH 16, 2006

VIA
ENGINEERS ■ PLANNERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS ■ GPS SERVICES
VIA INCORPORATED
20251 CENTURY BOULEVARD-SUITE 400 • CRYSTALANTOWN, MARYLAND 20874
(301) 916-4100 • FAX (301) 916-4101

ATTACHMENT "B" ^{Attach A}

Network Engineering
OPPE MD/DC

**verizon**

3901 Calverton Blvd, Floor
Beltsville, MD 20705-3420

April 13, 2006

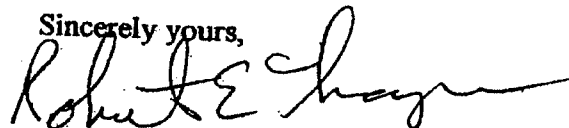
Mr. R. James Wasilak, AICP
Chief of Planning
111 Maryland Ave
Rockville, Md. 20850-2364

RE: Street closing and abandonment application SCA 2006-00097, Mount Vernon Place

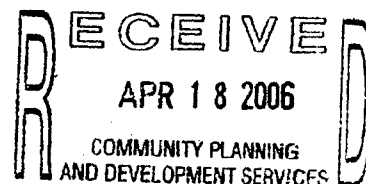
Dear Mr. Wasilak :

Please be advised that the area engineer has reviewed the above referenced petition. Verizon Maryland Inc. formerly Bell Atlantic - Maryland, Inc., and the Chesapeake and Potomac Telephone Company of Maryland, does not have existing facilities which conflict with this petition and therefore has no objection as long as the Public Utilities Easement is adjusted as necessary to keep the continuity of the easement in tact.

Sincerely yours,



Robert E. Thompson
(301) 596-6052





6801 Industrial Road
Springfield, Virginia 22

4-5-06



To: City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850-2364

Attn: R. James Wasilak

From: John Smith
Washington Gas
Supervisor Survey & Land Rights

Subject: Street Closing and Abandonment Application# SCA2006-00097 Mount
Vernon Place, Rockville City, Maryland
Dear Mike,

After review of our records and drawings and description and drawings sent to Washington Gas we have discovered we have no gas lines in the area of proposed abandonment from the information sent to Washington Gas. Therefore, we find this to be a conflict with Washington Gas and we offer **NO OBJECTION** to this proposal at this time.

Sincerely

A handwritten signature in black ink, appearing to read "John A. Smith".

John A. Smith
Washington Gas
Supervisor Survey & Land Rights

